

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Policies and Rules Concerning) CC Docket 94-129
Unauthorized Changes of)
Consumers' Long Distance)
Carriers)

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Comments of General Communication, Inc.
on Petitions for Reconsideration

General Communication, Inc. (GCI) hereby comments on the Petitions for Reconsideration¹ of the Commission's Report and Order in Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket 94-129, FCC 95-225, released June 14, 1995. The Petitions seek reconsideration of several issues including the following: clarification of 2-PIC rules regarding the distinction between a LATA and a state, the in-bound verification requirement, use of LOA checks and consumer liability issues.

¹Allnet Communication Services, Inc. Petition for Clarification Or, In the Alternative, Reconsideration, dated August 11, 1995; AT&T Petition for Limited Reconsideration, dated August 4, 1995; Frontier Communications International, Inc. Petition for Clarification or, in the Alternative, for Reconsideration, dated July 13, 1995; MCI Petition for Limited Reconsideration, dated August 11, 1995; Motion for Reconsideration by the National Association of Attorneys General Telecommunications Subcommittee (Arizona, California, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nevada, New Mexico, North Carolina, Pennsylvania, Rhode Island, Tennessee, Vermont, West Virginia, and Wisconsin), dated August 11, 1995; and, Sprint Communications Co. Petition for Reconsideration, dated August 9, 1995.

Introduction

The Commission, on its own motion, began this proceeding to review the policies and propose rules regarding unauthorized changes of consumers' long distance carriers due to the numerous complaints filed with the Commission over the past several years. In these comments GCI opposes Allnet's request for clarification regarding changes to 47 CFR 64.1150(e)(4) regarding the assertion that the 2-PIC rules should be changed from a distinction between interstate and intrastate to a distinction between interLATA and intraLATA; GCI supports the elimination of verification rules for in-bound telemarketing calls as proposed by AT&T, MCI, and Sprint; GCI agrees that the Commission should reevaluate the use of LOA checks as proposed by MCI and the National Association of Attorneys General; and, GCI disagrees with the consumer liability proposal advanced by the National Association for Attorneys General.

The Commission Should Not Mandate Use of InterLATA and IntraLATA versus Intrastate and Interstate Under A 2-PIC System

Allnet states that it "could find nothing in the record that suggests that separate interstate and intrastate interexchange carriers may be selected anywhere in the country."² Allnet argues that the choices under any 2-PIC system must be interLATA and intraLATA, not interstate and intrastate. This is incorrect. In Alaska, the choices are interstate and intrastate. In its comments³ and reply comments⁴ in this proceeding, GCI stated that

²Allnet Petition for Clarification Or, In the Alternative, Reconsideration, CC Docket 94-129, dated August 11, 1994, pp. 1.

³Comments of GCI, dated January 9, 1995.

the Commission should not preempt any state that institutes a "2-PIC" system. Several commentators agreed with GCI's position.⁵ The Commission adopted rules that allow the "2-PIC" system now operating in Alaska and Hawaii and being considered in several other states. A "2-PIC" system enables the consumer to exercise more choice of its long distance providers and allows the consumer to receive the full benefits of competition. The Alaska Public Utilities Commission (APUC) adopted this system during its proceeding instituting intrastate interexchange competition. The regulations require intrastate equal access that enables a subscriber to pick different interexchange carriers in the different jurisdictions, if the customer so desires.⁶

GCI supports the current rules which allows the LOA to differentiate between intrastate and interstate carriers. LATAs are a creation of the break up of the Bell System, which created one interexchange carrier, AT&T, and seven Regional Bell Operation Companies (RBOCs). However, the breakup did not create any distinctions in Alaska. At the time of the breakup, the Bell System did not provide service in Alaska and there are no Bell Operating Companies (BOCs) operating in Alaska. The Modified Final Judgment (MFJ), which created and defined LATAs, does not

⁴Reply Comments of GCI, dated February 8, 1995.

⁵Comments of Allnet and GTE, dated January 9, 1995; Reply Comments of Allnet, Ameritech and GTE, dated February 8, 1995.

⁶See, 3 AAC 52.333 and 52.334.

mention and does not apply to Alaska. Alaskan consumers are not familiar with the term LATA or what it means. Therefore, the Commission should continue to allow GCI to use the interstate/intrastate distinction on its LOAs. If the Commission chooses, it could redraft the rule to allow other carriers to make the interLATA/intraLATA distinction. The clarified wording of 47 CFR 64.1150(e)(4) would be as follows:

4) that the subscriber understands that only one interexchange carrier may be designated as the subscriber's interstate or interLATA carrier for any one telephone number. To the extent that a jurisdiction allows the selection of additional primary interexchange carriers (e.g., for intrastate, intraLATA or international calling), the letter of agency must contain separate statements regarding those choices. Any carrier designated as a primary interexchange carrier must be the carrier directly setting the rates for the subscriber. One interexchange carrier can be both a subscriber's interstate or interLATA primary interexchange carrier and a subscriber's intrastate or intraLATA primary interexchange carrier; and

GCI's LOA informs the subscriber that they can choose a different carrier for in-state calling and out-of-state calling. The subscriber is asked to check the appropriate box: GCI Both In-State and Out-of-State; GCI In-State; or, GCI Out-of-State. The language is clear and accurate and fully informs the subscriber of the available choices. GCI requests that the Commission continue to allow GCI to use this distinction. The proposed modification made herein will "be flexible enough to accommodate any new 2-PIC jurisdictions in the future."⁷

⁷Report and Order, paragraph 32.

Carriers Should Not Be Required to Verify In-Bound Calls

GCI supports the petitions for reconsideration that seeks the elimination of the in-bound verification requirement.⁸ In fact, most commentors in the proceeding agreed that there should be no restrictions on marketing by interexchange carriers when a potential customer calls the carriers' 800 number.⁹ If a subscriber calls an interexchange carriers' 800 number, the subscriber is interested in the carrier and its service offerings. The carrier should not be precluded from encouraging those customers to switch to that carrier nor have to go through any further verification procedures, as proposed by some commentors.¹⁰

Very few of the complaints cited by the Commission result from in-bound calls. GCI has received very few consumer complaints regarding in-bound calls. A verification process would impose burdens on both carriers and customers and cause customer confusion. The calls initiated by customers are usually calls that are placed to subscribe to the carrier. It is hard for the carrier then to abuse the process. This system

⁸AT&T Petition for Limited Reconsideration, MCI Petition for Limited Reconsideration and Sprint Communications Co. Petition for Reconsideration.

⁹Comments of AT&T, GTE, LDDS, Lexicom, MCI, Nynex, and Sprint, dated January 9, 1995; Reply Comments of ACC Corp., Commonwealth Long Distance, Communications Telesystems International, Custom Telecommunications Network, Hi-Rim Communications, L.D. Services, Inc., MCI and Sprint, dated February 8, 1995.

¹⁰Comments of Consumer Action, National Association of Attorney Generals, Midcom and NYDPS, dated January 9, 1995.

allows customers to call on their own volition to subscriber to the carrier.

Mandating verification on these calls will increase the costs of doing business for the carrier with little benefit. This costs would be especially difficult for smaller carriers.

LOA Checks Should Be Prohibited

The National Association of Attorneys General Telecommunications Subcommittee and MCI requests the Commission to reconsider its decision to allow combined check/LOAs. The Attorney Generals stress that a check is payable upon demand, without conditions. MCI stresses that the Commission's own record in the proceedings proves that a vast number of the complaints regarding slamming are due to LOA checks. Many consumer groups and state commissions stress the confusion by customers regarding LOA checks. Although many carriers including GCI have used LOA checks as marketing tools, GCI would support the removal of checks as LOAs.

Consumer Liability

Subscribers must be liable for their long distance charges. If the Commission implements rules, as requested by the Attorney Generals, requiring either forgiveness or reimbursement for long distance charges related to unauthorized PIC changes, then customer fraud would increase. There would be many more instances of claimed unauthorized changes. These issues are now usually resolved between the subscriber and the carrier. However, if long distance charges could be fully forgiven,

unauthorized claims and potential fraud would increase. As the Commission stated in its Report and Order:

Except for the time and inconvenience spent in obtaining the original PIC, consumers are not injured if their liability is limited to paying the toll charges they would have paid to the original IXC.¹¹

Further, the Commission instructed all IXCs to cooperate with customers in the settlement of charges.¹² The Commission specifically absolved customers from liability for optional calling plan payments if they are incorrectly switched.¹³ To completely absolve the customer will allow customers to claim they have been switched incorrectly when they have not. Consumers do not expect to get free long distance. They should expect to be charged their carrier's rates. If a carrier continues to slam customers to receive this revenue, the Commission should specifically punish that particular carrier.

¹¹Report and Order, paragraph 37.

¹²Id.

¹³Id., paragraph 39.

Conclusion

The Commission should grant the petitions for reconsideration to the extent outlined above.

Respectfully submitted,

GENERAL COMMUNICATION, INC.

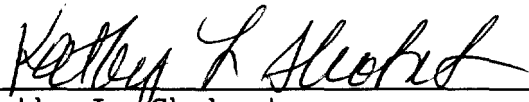
A handwritten signature in cursive script, reading "Kathy L. Shobert", is written over a horizontal line.

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September 8, 1995

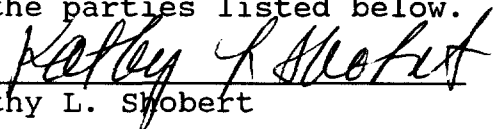
STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed September 8, 1995.


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CERTIFICATE OF SERVICE

I, Kathy L. Shobert, do hereby certify that on this 8th day of September, 1995, a copy of the foregoing was mailed by first class mail, postage prepaid, to the parties listed below.


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